

Town of (Town Name)

Model Public Wellhead Protection Ordinance

ARTICLE I. GENERAL PROVISIONS

SECTION 1. TITLE

This Ordinance shall be known and cited as the “Public Wellhead Protection Ordinance” of the Town of (Town Name), Maine.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII-A of the Maine Constitution, Title 30-A MRSA Section 3001 (Home Rule), Title 30-A MRSA Section 4311 (Growth Management), and Title 22 MRSA 2642 (Protection of Drinking Water Supplies).

[NOTE: Title 30-A MSRA Section 4311 (Growth Management) requires that a zoning ordinance, such as this, be consistent with the municipality’s comprehensive plan.]

SECTION 3. PURPOSE

The purpose of this ordinance is to protect the public water supply in (Town Name) from land uses which pose a threat to the quality and/or quantity of the ground water being extracted from the wells which serve the public water system.

[NOTE: Although this model ordinance is intended for public water supplies, it may be applied to private water supplies as well.]

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect upon its enactment by the Town. Enacted:

SECTION 5. APPLICABILITY

This ordinance applies to all land uses located or proposed within the area delineated as Wellhead Protection Zones on the official Town of (Town Name) Zoning Map or official Wellhead Protection Area Map.

SECTION 6. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this ordinance with or is inconsistent with another provision of this ordinance of any other ordinance, regulation, or statute, the more restrictive provision shall control.

SECTION 7. VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

SECTION 8. AMENDMENTS

A. Initiation and Procedure

A proposal for an amendment to this ordinance may be initiated by:

(1) The Planning Board; (2) the Selectmen; or (3) an individual, through the petition process for placing articles on the warrant for town meeting.

Amendments proposed by the Planning Board under paragraph (1) above shall be forwarded to the Selectmen to be included in a future town meeting warrant.

Amendments proposed by the Selectmen under paragraph (2) above shall be forwarded to the Planning Board for advisory review and comment prior to being placed on a town meeting warrant. In both cases, the Selectmen shall have final authority to determine whether to present the amendment to the town meeting for approval.

[NOTE: The petition process is described in 30-A MRSA 2522, however your particular town charter may provide for an alternate process]

B. Public Hearing and Water District Notification

The Planning board shall hold a Public Hearing on any proposed amendment, including amendments proposed by petition, at least fourteen (14) days prior to the Town Meeting vote. The Planning Board's hearing on proposed amendments shall be informational and advisory only. Notification of the public hearing and water district notification shall follow the requirements pursuant to Title 30-A MSRA Section 4352.

C. Enactment

A proposed amendment to this ordinance must be approved by a majority vote of the Town Meeting.

[NOTE: Amendment procedures provided in this section apply to towns with Selectmen / town meeting form of government only. Cities and towns with a town council form of government should replace Section 8 with language tailored to local charter and ordinance requirements.]

Article II. Administration, Enforcement, Appeals, and Penalties

SECTION 1. ADMINISTERING BODIES AND AGENTS

A. Code Enforcement Officer

The Code Enforcement Officer (CEO) of the Town of (Town Name) shall administer and enforce this ordinance. The Code Enforcement Officer shall refer all permit applications requiring Planning Board review to the Planning Board.

B. Planning Board

The Planning Board of the Town of (Town of Name) shall review and act upon permit applications as designated under this ordinance.

SECTION 2. PERMITS REQUIRED

After the effective date of this ordinance, no person shall engage in any land use activity identified in the Land Use Table listed in Article III, Section 2 without a permit under this ordinance.

SECTION 3. NON-CONFORMANCE

It is the intent of this Ordinance that land use activities conform to the standards of this ordinance. However, land use activities or uses that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

This ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

A. Non-conforming Structures

1. Expansion

A non-conforming structure may not be expanded unless the expansion conforms to all the regulations of the zone in which it is located.

2. Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which it is located provided that the site of relocation conforms to all setback requirement to the greatest practicable extent as determined by the Planning Board, and provided that 1) the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of

State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system will be installed in compliance with the law and said Rules. In no case may a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the relocation meets the setback to the greatest practicable extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems.

3. Reconstruction, Replacement

Any non-conforming structure that is removed, damaged or destroyed may be reconstructed or replaced provided that a permit is obtained within one year of the date of damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the standards established in Article III of this Ordinance.

B. Non-conforming Use

1. Expansions

Expansion of any non-conforming use is prohibited.

2. Discontinuance

A non-conforming use that is discontinued for a period exceeding one (1) year, or that is changed to conforming use, shall not be allowed to recur.

SECTION 4. PERMIT APPLICATION

An Applicant for a permit under this ordinance shall submit an application in writing to the Planning Board, as designated in the Wellhead Protection Area land Use Table (Article III, Section 2). All applications shall be dated and signed by the owner(s) or lessee(s) of the property or another person with a letter of authorization from the owner(s) or lessee(s). Such signature(s) shall certify that the information in the application is complete and correct.

SECTION 5. PLANNING BOARD PERMIT HEARINGS

Within forty-five (45) days of the date of receiving a written application, the Planning Board or CEO shall notify the applicant in writing, either that the application is a complete application or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or CEO shall also notify the Water District. Once the proposal complete the Planning Board may ask the District to provide comments on the proposal.

Once a complete application has been received, the Planning Board shall approve or deny the application, in writing, within forty-five (45) days. However, if the Planning Board has a waiting list of applications, such approval or denial shall occur within forty-five (45) days of the first available opening on the Planning Board's agenda or, within forty-five (45) days of the public hearing(s), if a hearing(s) are held.

Permits shall be approved if the proposed use or structure is found to be in conformance with the provisions of this ordinance. Permits may be made subject to reasonable conditions to insure conformity with provisions of this ordinance. If a permit is either denied or approved with conditions, the reasons shall be stated in writing.

When a proposed use in a Wellhead Protection Area requires Planning Board approval under Article III, Section 2 of this ordinance, the Planning Board, may, as a condition of its approval, require the applicant to (1) grant the municipality of the Water District permission to install and maintain groundwater monitoring wells on the applicant's property; or (2) install monitoring wells and implement a groundwater testing and monitoring program approved by the Planning Board, at the applicant's expense.

SECTION 5. APPLICATION FEE

An application fee of \$___ must be submitted with a permit application.

SECTION 6. INDEPENDENT REVIEW AND ADVICE

A. Professional Services

The Planning Board may require an attorney or consultant to review one or more aspects of an application for compliance or noncompliance with this ordinance and to advise the Planning Board. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit, with the Town the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment.

B. Additional Studies

The Planning Board may require the applicant to undertake any study that it deems reasonable and necessary to determine whether a proposed activity meets the requirements of this ordinance. The costs of such studies shall be borne by the applicant.

SECTION 7. PERFORMANCE GUARANTEES

The Planning Board may require the applicant to provide performance guarantees for an amount adequate to cover the total construction costs of all required improvements. Performance guarantees may be made by certified check, payable to the Town, or a savings account naming the Town as owner, for the establishment of an escrow account; by an irrevocable letter of credit from a financial institution establishing funding for the

construction of the project, from which letter the Town may draw if construction is inadequate; or by a performance bond, payable to the Town, issues by a surety company and acceptable to the Town. The form, time periods, conditions, and amount of performance guarantees shall be determined by the Planning Board.

SECTION 8. EXPIRATION OF PERMIT

Following the issuance of a permit, if construction or use does not commence within one (1) year of the date of the permit, the permit shall lapse and become void. However, the permit may be renewed within six (6) months of the date of expiration, upon application to PB/CEO and the applicant demonstrates that there are no substantial changes in the proposed structure or use and there are no changes to the ordinance.

[NOTE: A permit renewal fee may be assessed by the Planning Board]

SECTION 9. ENFORCEMENT AND PENALTIES

A. Inspections and Complaints

The CEO shall investigate all complaints of alleged violations of this Ordinance, pursuant to 30-A MRSA Section 4452. The CEO may seek technical advice from a representative of the Water District when investigating complaints.

The CEO may also conduct site inspections to ensure compliance with this Ordinance, pursuant to 30-A MSRA Section 4452. During investigations, the Code Enforcement Officer may be accompanied by a representative of the Water District.

B. Notice of Violations

It shall be the duty of the CEO to enforce this ordinance, in accordance with the provisions of this ordinance and state laws. If the CEO finds that any provision is being violated, the CEO shall notify in writing the person responsible for such violation. The notice shall state the nature of the violation, the ordinance provision or permit condition violated, and the action necessary to correct the violation. The notice shall inform the recipient of their right to appeal as to the facts supporting the notice by the CEO, pursuant to Article II, Section 12 of this Ordinance. A copy of the notice shall be provided to the Planning Board, Water District, and Selectmen.

[Note: The provisions in Section B above may conflict with local procedural rules. This section should be revised, as necessary, to be made consistent with existing prescribed procedures.]

C. Recordkeeping

The CEO shall keep a complete record of all transactions relating to the administration and enforcement of this ordinance, and shall maintain a permanent record of those

transactions at the town office. Copies of all permits shall be provided to the Water District.

D. Legal Action

When a person does not correct a violation after receiving notice to do so, the CEO shall notify the Selectmen and the Water District. The Selectmen, or their authorized agent, may institute all legal and equitable actions necessary to correct the violation and recover fines and costs.

E. Penalties

Any person who continues to violate a provision of this ordinance or condition of a permit after receiving written notice to correct the situation shall be subject to penalties as provided in 30-A MRSA Section 4452.

SECTION 10. APPEALS

[NOTE: the following provisions may conflict with local Board of Appeals ordinances or procedural rules. This section should be revised, as necessary, to be made consistent with existing prescribed procedures].

A. Time for Appeal

Any party aggrieved by a decision or order of the Code Enforcement Officer or Planning Board under this ordinance may appeal the decision or order concerned within thirty (30) days to the Board of Appeals. Appeals shall be filed on forms to be provided by the Board of Appeals for this purpose.

B. Parties

For purposes of this section, the term “party” shall be limited to:

1. A permit applicant whose application is denied or granted with conditions.
2. A permit holder whose permit is suspended or revoked by the CEO or PB.
3. A person owning property within a Wellhead Protection Area designated in Appendix I of this ordinance, who is adversely affected by a decision or order of the Code Enforcement Officer or Planning Board with respect to any property located in the same Wellhead Protection Area.
4. A person whose use of groundwater as a domestic water supply is adversely affected by a decision or order of the Code Enforcement Officer or Planning Board under this Ordinance.
5. The Town of _____, through its municipal officers.
6. The _____ Water District.

C. Decision or Order

The purposes of this section, the term “decision or order” shall not include failure by the Code Enforcement Officer to take enforcement action with respect to a particular person, property or alleged violation, when the enforcement action has been requested by persons or organizations other than the municipal officers.

D. Type of Review

An appeal from a decision or order may be taken to the Board of Appeals under this section only where it is alleged that the decision or order concerned is based on an error of law or mis-interpretation of this ordinance. All appeals to the Board of Appeals under this section shall be reviewed by the Board of Appeals as purely appellate matters, based on the administrative record made by the Code Enforcement Officer or Planning Board. No new evidence shall be received or considered by the Board of Appeals as to any matter appealed to the Board of Appeals under this section.

E. Board’s Procedure

All appeals under this section shall be reviewed and decided by the Board of Appeals within sixty (60) days after receipt of a completed appeals form, unless all parties to the appeal agree to an extension of this time. The Board of Appeals shall conduct a public hearing on any appeal files, at which all parties for that appeal shall be permitted to present written or oral argument and to otherwise express their views. Following close of the public hearing and its deliberations, the Board of Appeals shall vote to grant or deny the appeal. The Board of Appeals shall issue its decision as to any appeal in writing. The Board of Appeals shall have authority to remand the matter to the Code Enforcement Officer or Planning Board in appropriate cases. The Board of Appeals may reconsider its decision within thirty (30) days after the original decision date, if a request for reconsideration is received from any party to the appeal in writing within fourteen (14) days after the original decision date. All parties to the appeal shall be afforded a reasonable opportunity to express their views on any reconsideration request. In reviewing a request for reconsideration, the Board of Appeal shall not receive or consider any new evidence.

F. Appeals

Any party who is aggrieved by a decision of the Board of Appeals may appeal that decision to the ___ County Superior Court, in accordance with 30-A MRSA Section 2691 (3)(6) and Rule 80B, Maine Rules of Civil Procedure.

[Note: By statute, 30-A MRSA section 2691 (3) (6), any appeal must be taken within 45 days of the vote on the original decision by the Board of Appeals. A decision on reconsideration does not extend this appeals period. The date of the Board’s vote, and not the date of the written decision, starts the 45 day clock]

Article III. Land Use Requirements

SECTION 1. ESTABLISHMENT OF ZONES

The Wellhead Protection Area consists of two (2) zones that are shown on the official Town of (Town Name) Zoning Map or official Wellhead Protection Area Map. The two zones are defined as:

A. Zone 1: Immediate Recharge Area

Zone 1 includes the area immediately recharging the water supply, as shown on the official Town of (town) Zoning Map or official Wellhead Protection Area Map.

[NOTE: The State of Maine Drinking Water Program uses the 200-day time of travel boundary to delineate Zone 1.]

B. Zone 2: Primary Recharge Area

Zone 2 includes the primary recharge area shown on the official Town of (town) Zoning Map or official Wellhead Protection Area Map.

[NOTE: The State of Maine Drinking Water Program uses the 2,500 day time-of travel boundary to delineate Zone 2.]

SECTION 2. LAND USE TABLE

The uses listed below are commonly integrated within other types of uses. For example, Use or storage of petroleum products can occur at auto repair shops as well as gas stations. Any proposed land use which incorporates the following in their primary use is subject to the requirements of this section.

Any use not listed in this section is not subject to the requirements of this section.

Use	Zone 1	Zone 2
1) Non-agricultural chemical use, storage and handling (including petroleum products)		
a) Dry cleaner	N	PB
b) Automobile repair/body shop	N	PB
c) Storage of petroleum products > 500 gallons	N	PB
d) Fertilizer dealers	N	PB
e) Boat yards/builders	N	PB
f) Photo developers	N	PB

2) Agricultural chemical use, storage and handling		
a) Pesticides application	PB	PB
b) Petroleum based fertilizer application	PB	PB
c) Manure spreading	PB	PB
d) Beneficial use of residuals	PB	PB
3) Storage, handling and processing of solid waste		
a) Transfer Station/landfill	N	N
b) Woodwaste/agricultural cull piles	N	N
4) Vehicular storage, use		
a) Commercial overnight storage or parking; maintenance and refueling of vehicles and equipment ¹	N	PB
b) Retail or wholesale vehicles included	N	PB
c) Storage of fuels in gravel pits or rock mining areas	N	PB
5) Bulk storage of leachable material, including, but not limited to concrete, asphalt, coal and salt	N	N
6) Mining		
a) Sand and Gravel Mining	N	PB
b) Rock	N	PB
c) Metallic ore	N	N
7) Subsurface injection		
a) New subsurface wastewater disposal systems > 1,000 gals.	N	PB
b) Replacement or expansion of subsurface wastewater disposal systems	PB	PB
c) Discharge of commercial or industrial wastewater or washwater to a septic system (including car wash, Laundromat, etc.) ²	N	PB
8) Stormwater management		
a) New impervious area	PB	PB
b) Detention	PB	PB
c) Retention	PB	PB
d) Infiltration	PB	PB
9) Commercial Water Production Wells	N	PB
10) Utility Corridors	PB	PB
11) Essential Operations of the Water District or other official safety or utility entity	Y	Y

Land use key

Y= permitted

N= not permitted

PB= permitted subject to Planning Board Review and use of Best Management

CEO= permitted subject to CEO Review and use of Best Management Practices

Footnotes:

¹Short-term overnight parking may be allowed in connection with other activities receiving a CEO or PB permit, e.g., short-term overnight parking of construction vehicles on new permitted construction projects.

²Includes any discharge which could enter the ground.

[NOTE: All land uses and activities may be subject to requirements of other Town ordinances and State rules and regulations.]

SECTION 3. LOT SPECIFICATIONS

A. Minimum Lot Size

Areas not served by public sewer:

<u>Zone</u>	<u>Land Area per Dwelling Unit</u>
1	120,000 sq. ft.
2	80,000 sq. ft.

Areas served by public sewer have a minimum lot size of 20,000 square feet per dwelling unit for lots served by public water and sewer.

[NOTE: Lots serviced by public sewer may be smaller in area.]

B. Maximum Lot Coverage

For portions of lots within the Wellhead Protection Area, the maximum lot coverage that can be covered by impermeable surfaces including parking areas, shall be limited as follows:

<u>Zone</u>	<u>Maximum lot Coverage</u>
1	30%
2	50%

Notwithstanding other provisions of the ordinance, lot coverage that exists as of the date of adoption of this ordinance that equal or exceed the applicable percentage limitation may be continued and may be expanded with Planning Board approval. Expansions of lot coverage shall be limited to no more than ten percent (10%) of the portion of the lot located in the Wellhead Protection Area. However, the Planning Board shall not authorize expansion of impermeable surfaces of existing uses if the total coverage of all lot areas located in the Wellhead Protection Area is greater than fifty percent (50%) in Zone 1 or greater than sixty-five percent (65%) in Zone 2.

SECTION 4. APPLICATION REQUIREMENTS

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size or nature of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not affect or conflict with the purposes of this ordinance.

A. All Applications

All applications shall contain the following information.

1. Written information:

- a. Name of development; municipality; tax map and lot numbers.
- b. Owner and applicant's names and addresses; name and addresses of person who prepared the application and/or plan.
- c. Name and address to which correspondence should be sent.
- d. If applicant is a corporation, state whether the corporation is licensed to do business in Maine and attach a copy of Secretary of State's Registration.
- e. Copy of recorded deed for property; verification of ownership of legal interest.
- f. Interest the applicant has in any property abutting the parcel to be developed.
- g. State whether the development covers the entire or contiguous holdings of applicant.
- h. On-site sewage disposal report from licensed site evaluator or information from local sewer district indicating capacity.
- i. Special reports:
 - i. Necessary state and/or federal permits and date of application and approval (please list).
 - ii. List of construction items, cost estimates.
 - iii. Construction schedules.
 - iv. Proposed method of performance guarantee.
 - v. Restrictions, conditions, covenants and easements.

2. Plan information:

- a. Existing and proposed streets.
- b. Outline of development and remaining portion of property scale; written and graphic date; north point.
- c. Perimeter survey (bearings and distances; surveyor's seal; number of acres; existing and proposed monuments; abutters names).
- d. Lot lines, numbers and sizes; building setback lines.
- e. Existing water bodies, watercourses, wetlands, and other significant natural features.
- f. Public and private rights-of-way and easements.
- g. Zoning boundaries.
- h. Location of test pits keyed to site evaluator's or soil scientist's report.
- i. Base flood elevation, if applicable.

- j. Written request for waivers or variances.
- k. Contours of 5 feet or other interval; refer to USGS bench if within 500 feet.
- l. Location and design of culverts, drains and other storm water control structures, existing and proposed.
- m. Location and design of proposed sewers and water lines.
- n. Typical engineering plan, profiles, and cross-sections.
- o. Medium intensity or high intensity soils maps.
- p. Location of parking, open space, conservation and/or recreation areas.
- q. Landscaping plan and details.
- r. Surface drainage plan.
- s. Soil erosion and sedimentation control features.
- t. Locations, dimensions and profiles of underground utilities.
- u. Profile and typical cross-sections of streets and other public works.
- v. Location/identification of buffers, lots or areas to be restricted or dedicated for common or public use.

B. Additional Application Requirements for Planning Board Review for Certain Activities within the Wellhead Protection Area

More than one of the categories listed below may apply to a particular use. Applicants should request assistance from the Planning Board should there be questions as to which categories apply.

- 1. Non-agricultural chemical use, storage and handling, (including petroleum products)
 - a. Type and volume of chemical compounds handled and/or stored.
 - b. Site plan showing all storage, handling and use areas for raw materials and wastes.
 - c. For outside areas, details to contain spills including:
 - i. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
 - ii. provisions to collect chemicals should they enter the drainage system;
 - iii. provisions to segregate underground systems to insure that there are no cross connections;
 - iv. provisions to prevent accidental containment breach by collisions;
 - v. statement of emergency measures which can be implemented for surface drainage systems;
 - d. For inside areas, details to contain spill including the:
 - i. design of dikes around rooms;
 - ii. the location of floor drains and floor drains outlets;
 - iii. the location of separators, holding tanks and/or drain outlets;
 - iv. the specific location and design of underground storage structures;
 - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.

- e. A spill prevention and control and countermeasure (SPCC) plan detailing:
 - i. materials and equipment to be available;
 - ii. a training plan and schedule;
 - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - v. an inspection schedule.
 - f. A report by an industrial engineer or other competent professional detailing:
 - i. steps which have been taken to reduce the use of hazardous material;
 - ii. actions which have been taken to control the amount of wastes generated;
 - iii. any reports to provide information on the design theory or methodology for the above features.
2. Agricultural chemical use, storage and handling
- a. Type and volume of chemical compounds handled and/or stored.
 - b. Intended use.
 - c. An Integrated Pest management Plan.
 - d. An on-site soils evaluation to assess nutrient holding capacity and leachability of the soils.
 - e. Plans for control of surface water run-off and erosion in areas where chemicals will be applied.
 - f. Detailed report on type of chemical applied and rate of application.
 - g. Site plan showing all storage, handling and use areas for raw materials and wastes.
 - h. For outside storage, details to contain spills including:
 - i. drainage and contour information to prevent the flow of runoff from entering;
 - ii. the storage area and which keep leaks or spills from flowing off site;
 - iii. provisions to collect chemicals should they enter the drainage system;
 - iv. provisions to segregate underground systems to insure that there are no cross connections;
 - v. provisions to prevent accidental containment breach by collisions;
 - vi. statement of emergency measures which can be implemented for surface drainage systems.
 - i. For inside storage, details to contain spill including the:
 - i. design of dikes around rooms;
 - ii. the location of floor drains and floor drains outlets;
 - iii. the location of separators, holding tanks and/or drain outlets;
 - iv. the specific location and design of underground storage structures;
 - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
 - j. A spill prevention and control and countermeasure (SPCC) plan detailing:
 - i. materials and equipment to be available;
 - ii. a training plan and schedule;
 - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - iv. an inspection schedule.
 - k. A report by an industrial engineer or other competent professional detailing:
 - i. steps which have been taken to reduce the use of hazardous material;

- ii. actions which have been taken to control the amount of wastes generated;
 - iii. any reports to provide information on the design theory or methodology for the above features.
- 3. Vehicular use and storage
 - a. A site plan, drawn to scale, showing locations and designs of secondary containment for fuel and storage and refueling pads.
- 4. Sand and Gravel Mining – (borrow pits)
 - a. A location map and site plan, drawn to scale, showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, erosion and sedimentation control all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas.
 - b. A detailed report by a licensed hydrogeologist attesting to the depth of the seasonal water table, and plan showing benchmarked elevations for depth of excavation.
- 5. Subsurface injection
 - a. Subsurface Wastewater Disposal
 - i. Soil evaluator's report and septic system design.
 - ii. For sites/uses producing >1,000 gallons of sewage, a hydrogeologic analysis of nitrate concentrations at the property line.
 - b. Sewage Disposal
 - i. Evaluation of public/private sewer system capacity and integrity of sewer lines serving the development by a Registered Engineer or the sewer system superintendent.
 - c. Subsurface Injection
 - i. Provisions and designs for all floor drains, grease traps, and holding tanks.
- 6. Stormwater Management
 - a. Engineering calculations and plans which provide:
 - i. Design of dry wells, storage, retention or detention facilities and other surface water;
 - ii. Impoundments;
 - iii. Stormwater system outlets;
 - iv. Delineation of post development drainage areas;
 - v. Plans for ice control, use of road salt, and snow removal.
- 7. Commercial Water Production Wells
 - a. Location and construction specifications.

- b. A report from a licensed hydrogeologist on the safe yield and impact upon adjacent public water supply wells.
8. Utility Corridors
- a. Type and volume of chemical compounds handled and/or stored.
 - b. Site plan showing all storage, handling and use areas for raw materials and wastes.
 - c. For outside areas, details to contain spills including:
 - i. drainage and contour information to prevent the flow of runoff from entering the storage area and which keep leaks or spills from flowing off site;
 - ii. provisions to collect chemicals should they enter the drainage system;
 - iii. provisions to segregate underground systems to insure that there are no cross connections;
 - iv. provisions to prevent accidental containment breach by collisions;
 - v. statement of emergency measures which can be implemented for surface drainage systems;
 - d. For inside areas, details to contain spill including the:
 - i. design of dikes around rooms;
 - ii. the location of floor drains and floor drains outlets;
 - iii. the location of separators, holding tanks and/or drain outlets;
 - iv. the specific location and design of underground storage structures;
 - v. the location and design of piping systems for wash are discharged and that wastes are discharged to appropriate sewers or treatment systems.
 - e. A spill prevention and control and countermeasure (SPCC) plan detailing:
 - i. materials and equipment to be available;
 - ii. a training plan and schedule;
 - iii. a list of contacts (EPA/DEP/local fire officials) with phone numbers;
 - v. an inspection schedule.
 - f. A report by an industrial engineer or other competent professional detailing:
 - i. steps which have been taken to reduce the use of hazardous material;
 - ii. actions which have been taken to control the amount of wastes generated;
 - iii. any reports to provide information on the design theory or methodology for the above features.

SECTION 5. PERFORMANCE STANDARDS

A. General Provisions

All development located within the Wellhead Protection Area shall comply with the Performance Standards established in this section to protect the quality and quantity of the public water supply.

B. Performance Standards for Non-agricultural chemical use, storage and handling (including petroleum products)

1. New installation of underground storage tanks are prohibited within the Wellhead Protection Area.
2. All chemicals must be stored under cover and on an impervious surface, without floor drains.
3. Secondary containment of liquid chemicals equaling 110% of the stored product must be provided.
4. Tanks for liquid chemical storage must be equipped with automatic shut-off valves and high level alarms.
5. Any above-ground piping must be designed to prevent line breakage due to collision.
6. All containers and piping must be constructed of corrosion resistant materials.
7. All containers must be clearly labeled with the chemical name and date of purchase.
8. A Spill Prevention, Containment and Countermeasures Plan (SPCC) must be submitted to the CEO, Fire Department and the Water District.

C. Performance Standards for agricultural chemical use, storage and handling

1. The use of chemicals or residuals shall not cause or contribute to the cumulative, calculated or actual levels of any contaminants in the groundwater at the Water District's property line to exceed 50% of the allowable Primary Public Drinking Water Standards as defined by the Federal Safe Drinking Water act, as amended.
2. Only fertilizers containing predominantly slow release nitrogen and manure are allowed. Fertilizers shall be applied at an agronomic rate based on annual soil test results. Permit applications must be on an annual basis. Permit applications shall include application materials and rates.
3. Only land application of pesticides with low leachability by Maine licensed applicators is allowed. Provisions shall be made for control of surface run-off and erosion in areas where pesticides are being applied. Permit applications shall be submitted on an annual basis and shall include copies of the pesticide labels and materials safety data sheets and the proposed rate of application. In addition to a comprehensive Integrated Pesticide Management Plan certified by a groundwater hydrologist as having no unreasonable adverse effects on groundwater. Annual reports detailing the type and amount of substance reports as well as date and specific location of application shall be submitted to the CEO annually.

D. Performance Standards for vehicular use and storage

1. When draining oils or fluids from vehicles, precautionary measures such as portable drip pans, must be taken to ensure that no spills occur.
2. All fuel oil, waste oil, lubricants, antifreeze, or other potential contaminants must have secondary containment equal to 110% of the liquid volume stored.
3. No vehicle washing may occur.
4. Refueling vehicles must be equipped with a shovel, an impermeable container with a volume of no less than 35 gallons and a tight fitting lid, and at least two

absorbent pads or pillows. An absorbent pad or portable drip catch must be in place beneath the fill tube at all times during the refueling operation.

5. Refueling must occur on a concrete pad or other impermeable surface.

E. Performance Standards for small borrow pits (Sand and Gravel Mining)

1. No part of any extraction operation may be permitted within 150 feet of any property or street line, except that drainage ways to reduce run-off into or from the extraction area may be allowed up to 100 feet from such line. No part of the extraction operation, including drainage and runoff control features, may be permitted within 100 feet of the normal high-water line of a water body or upland edge of a wetland. Natural vegetation must be left and maintained on the undisturbed land. Excavation may not occur below the level of the traveled surface of any street, road, or right-of-way within 150 feet of that street, road, or right-of-way, except that excavation below the traveled surface level may occur within 150 feet of a private road or right-of-way with the written permission of the owner of that road or right-of-way. A natural buffer strip at least 150 feet wide must be maintained between any excavation and a property boundary, including a street right-of-way. This distance may be reduced to not less than 10 feet with the written permission of the affected abutting property owner or owners, except that the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground. The distance between excavations owned by abutting owners may be reduced to not less than 75 feet with the abutter's written permission.
2. Separation must be maintained between any excavation and any public drinking water source as follows: (1) For systems serving a population of 500 persons or less, the minimum separation must be 300 feet; (2) For systems serving a population of 501 persons up to 1,000 persons, the separation must be 500 feet; (3) For systems serving a population of more than 1,000 persons, the separation must be 1,000 feet; and (4) For any system that holds a valid filtration waiver in accordance with the federal Safe Drinking Water Act, the separation must be 1,000 feet
3. If any standing water accumulates, the site must be fenced in a manner adequate to keep out children. Measures must be taken to prevent or stop the breeding of insects.
4. No slopes steeper than 3 feet horizontal to 1 foot vertical are permitted at any extraction site unless a fence at least 6 feet high is erected to limit access to such locations.
5. Before commencing removal of any earth materials, the owner or operator of the extraction site must present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance must be maintained throughout the period of operation.
6. Any topsoil and subsoil suitable for purposes of revegetation must, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased.

- Such stockpiles must be protected from erosion, according to the erosion prevention performance standards of this section.
7. Sediment must be trapped by diversions, silting basins, terraces or other measures designed by a professional engineer.
 8. The sides and bottom of cuts, fills, channels, and artificial water courses must be constructed and stabilized to prevent erosion or failure.
 9. The hours of operation at any extraction site must be limited as the Planning Board deems advisable to ensure operational compatibility with nearby residences.
 10. Excavation may not extend below 5 feet above the seasonal high water table without the submission of detailed findings of the depth of the water table. The Board may, upon verified determination of the depth of the seasonal high water table, permit excavation within 2 feet above the water table.
 11. Loaded vehicles must be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods are subject to approval by the Road Commissioner and the Planning Board. No mud, soil, sand, or other materials may be allowed to accumulate on a public road from loading or hauling vehicles.
 12. All access and or egress roads leading to or from the extraction site to public roads must be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public roads.
 13. No equipment debris, junk, or other material is permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith must be removed within 30 days following completion of active extraction operations.
 14. Within 6 months of the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades must be established in accordance with the approved plans filed with the Planning Board. These plans must provide for the following:
 15. All debris, stumps, boulders, and similar materials must be removed or disposed of in an approved location or buried and covered with a minimum of two feet of soil.
 16. The extent and type of fill must be appropriate to the use intended. The applicant must specify the type and amount of fill to be used.
 17. Storm drainage and water courses must leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.
 18. At least 4 inches of topsoil or loam must be retained or obtained to cover all disturbed areas, which must be reseeded and property restored to a stable condition adequate to meet the provisions of the "Erosion and Sediment Control, Best Management Practices," published by the Maine Department of Environmental Protection.
 19. No slope greater than 3 feet horizontal to 1 foot vertical is permitted.
 20. Disused gravel pits within the Wellhead Protection District shall be reclaimed according to plans submitted to the Municipality.

21. Gravel mining activities in Wellhead Protection District must have emergency spill response plans.

F. Performance Standards for septic systems

1. All new and replacement subsurface wastewater disposal systems shall submit evidence of site suitability prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Waste Water Disposal Rules and for systems producing > 1,000 gallons of sewage, a hydrogeologic analysis of nitrate/nitrite impact study, with nitrate/nitrite concentrations limited to 5mg/L at the property line.

G. Performance Standards for Stormwater Management

1. If a project includes less than one acre of impervious area the stormwater management system must detain or retain stormwater from 24-hour storms of 2-, 10-, and 25-year frequencies such that the peak flow of stormwater from the site does not exceed the peak flow of stormwater from the site prior to the undertaking of the project. The peak flow of the receiving waters may not be increased as the result of the stormwater runoff from the site for 24-hour storms of 2-, 10-, and 25-year frequencies. In municipalities with designated 100-year flood elevations, the site runoff may not adversely affect the designated 100-year flood elevations.

The Planning Board may waive this requirement if the system is designed to discharge stormwater flow into a stormwater system of a municipality or public utility, when the applicant has permission to discharge stormwater into that system, and demonstrates that the municipality or public utility has determined that it has adequate capacity to accommodate the change in flow.

2. Infiltration of stormwater from impervious areas greater than 20,000 square feet shall not be infiltrated, and any detention or retention structures shall be designed and constructed in such a manner that excludes groundwater interaction.

H. Performance Standards for Utility Corridors

1. Pesticide use shall conform to the Standards listed in Article III, Section 5(B) of this ordinance, "Non-agricultural chemical use, storage and handling".

SECTION 6. CONTROL OF EXISTING THREATS

A. Inspection

The CEO shall also have the right to inspect any property located in a Wellhead Protection Area, except building interiors, at reasonable hours, without landowner permission, as provided in 30-A MRSA section 4452, for the purpose of

determining compliance with this ordinance or any permit issued hereunder. The Code Enforcement Officer may be accompanied by a representative of the Water District. In the event the landowner denies or prevents access for this purpose, the CEO shall be authorized to apply for an administrative site inspection warrant pursuant to Rule 80E, Maine Rules of Civil Procedure.

B. Monitoring

Whenever the CEO finds that a use existing as of the date of adoption of this ordinance, including but not limited to uses of the types identified in Article III, Section 2 of this ordinance, is located within a Wellhead Protection Area designated by this ordinance and poses an actual or potential threat to the safety or quality of a public groundwater supply, the Planning Board may order the property owner to grant permission for installation, or to install, groundwater monitoring wells and to conduct testing as provided in subsection (1) above. Installation of monitoring wells and testing and monitoring of groundwater in such cases shall be at the sole cost of the municipality or the Water District, provided that if such testing indicates that the use is found to cause or contribute to reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards at the Water District property line, the property owner shall reimburse the municipality or Water District for all expenses incurred for installation, testing and monitoring.

C. Enforcement

If any use causes or contributes to a reduction of eighty percent (80%) or more of the State Primary or Secondary Drinking Water standards at the Water District property line, the CEO may require the owner of the property on which the contaminating use occurs to cease activity, install or construct mechanisms, or enact appropriate procedures to reduce the contamination.

Article IV. Definitions

[NOTE: The following are only suggested definitions. The list should be reflect terms used within existing language]

Agriculture

The cultivation of soil, producing or raising crops, including gardening, horticulture, and silviculture, as a commercial operation. The term shall also include greenhouse, orchards, nurseries, and versions thereof, but shall not include home gardens.

Aquifer

A permeable geologic formation, either rock or sediment, that when saturated with groundwater is capable of transporting water through the formation.

Best Management Practice

Procedures designed to minimize the impact of certain activities or land uses on groundwater quality and quantity, and shall include best management practices relating to groundwater quality as developed by the State of Maine departments of Agriculture, Forestry, Transportation and Development pursuant to 38 M.R.S.A. Section 410-J.

Board

Refers to the Town of (Town Name) Planning Board.

Chemical Bulk Storage

Storage of a chemical or chemicals in a container or containers larger than those intended for normal homeowner or retailer purposes. Proper, non-commercial, homeowner use of chemicals is not included.

Code Enforcement Officer

A person appointed by the municipal officers to administer and enforce this Ordinance.

Commercial

Any activity carried out for pecuniary gain

Conforming

A building, structure, activity or land use which complies with the provisions of this ordinance.

Construction

Includes building, erecting, moving or any physical operations on the premises which are required for construction. Excavating, filing, paving and the like shall be considered part of construction.

Construction and Commercial Equipment & Vehicle Storage

Storage of construction equipment or other commercial vehicles in excess of thirty (30) consecutive days in which the equipment is not used.

Construction/Demolition

Construction or demolition of facilities, buildings, etc. associated with the land uses or activities.

Drinking Water Standards, Primary and Secondary

Standards for drinking water as stated in the State of Maine Rules Relating to Drinking Water, Maine Department of Human Services.

Dump (see landfill)

Excavation (see construction)

Fill (see construction)

Floor Drain

An opening in the floor that leads to the ground and/or is not permitted under other State, Federal, or local regulations. Work sinks which lead to such drains are included.

Fuel Oil Distributor, Fuel Oil Storage

The storage of fuel for distribution or sale. Storage of fuel oil not for domestic use, i.e., not in tanks directly connected to burners.

Gas Station, Service Station

Any place of business at which gasoline, other motor fuels, motor oil or vehicle maintenance services are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

Ground water

The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined aquifer.

Hazardous Material

Any gaseous, liquid or solid materials or substances designated as hazardous by the Environmental Protection Agency and/or the Maine Department of Environmental Protection.

Hazardous Waste

Any substance identified under chapter 850, Identification of Hazardous Wastes, of the rules of the State of Maine, Department of Environmental Protection, effective date July 1, 1980, including revisions or amendments thereto, and any radioactive waste material which means any solid, liquid, or gas residue, including but not limited to spent fuel assemblies prior to processing, remaining after the primary usefulness of the radioactive material has been exhausted and containing nuclides that spontaneously disintegrate or exhibit ionizing radiations.

Horticulture (see agricultural)

Industrial

Any activity which includes the assembling, fabrication, servicing, manufacturing, storage, packaging, processing or shipping of goods, or the extraction of minerals.

Industrial Waste

Wastes resulting from the processes employed in industrial manufacturing, trade, or business establishments.

Inert Fill

Material placed on or into the ground as fill that will not react chemically with soil, geologic material, or groundwater.

Integrated Pest Management Plan (IPM)

Integrated Pest Management (IPM) is the coordinated use of physical, biological and cultural controls and least-toxic pest control products and techniques to prevent unacceptable levels of pest damage by the most economical means with the least possible hazard to people, property and the environment. Integrated Pest Management involves the monitoring of pest populations, establishment of injury levels, modification of habitats (to eliminate sources of food, water, harborage and entry), utilization of least-toxic controls, and keeping of records and evaluation of performance on an ongoing basis

Intensive Open Space Uses

Uses of open space which have the potential, because of their duration, frequency, or nature, to significantly impact the environment, particularly the groundwater quality and quantity. Examples of intensive open space uses include: automobile or all-terrain vehicle race tracks or ranges, etc.

Landfill

An area used for the placement of solid waste, liquid waste or other discarded material on or in the ground.

Mining or Mineral Extraction

The removal of geologic materials such as soil, topsoil, loam, sand, gravel, clay, metallic, ores, rock, peat, or other like material from its natural location and transportation of the product removed away from the extraction site.

Nursery (see agriculture)

Open Space

Land that is free of buildings and other permanent structures.

Park

Land area set aside for public recreation, conservation, wildlife, or other similar purpose.

Paving (see construction)

Pesticide, Herbicide Bulk Storage

Storage of herbicides or pesticides intended for sale or intended for application on commercial premises or intended for application on cash crops. Homeowner storage or storage by non-commercial gardeners is not included.

Road

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Salt or Sand/Sale Piles (uncovered)

Storage of any amount of salt or sand/salt mix, for any purpose, without a rood or other structure capable of preventing precipitation from reaching the salt or sand/salt.

Silviculture (see agriculture)

Sludge

Residual material produces by water or sewer treatment processes, industrial processes, or domestic septic tanks.

Sludge Utilization

The spreading of sludge on the ground or other use of sludge which might expose surface or groundwater to the sludge.

Snow Dump

A location to which snow is transported and dumped by commercial, municipal, or State snow-plowing operations.

Solid Waste

Discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse.

SPCC Plan

Spill Prevention Control and Countermeasure Plan as described in 40CFR, Part 112 of Federal Oil Pollution Prevention Regulations.

Stormwater Drainage

A sewer or other system for conveying surface runoff due to storm events and unpolluted ground or surface water, including that collected by cellar drains, but excluding sanitary sewage and industrial waste.

Stormwater Impoundment

Any structure designed and constructed to contain stormwater runoff.

Subdivision

A subdivision shall mean the division of a tract of parcel of land as defined in Title 30A, M.R.S.A., section 4401. The term subdivision shall also include such developments as mobile home parks, multiple-family dwelling(s), shopping centers, condominiums, and industrial parks where there are three or more units involved, and additional divisions and developments defined as subdivision in the (Town Name) Land Use Ordinance.

Subsurface Injection (see subsurface wastewater disposal)

Subsurface Wastewater Disposal System

A collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s) surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA section 414, any surface wastewater disposal system licensed under 38 MRSA section 413, Subsection 1-A, or any public sewer, sewerage system, or wastewater treatment plant.

Timber Harvesting

The cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery.

Transfer Station; Recycling Facility

Facility designed for temporary storage of discarded material intended for transfer to another location for disposal, re-use, and/or processing.

Utility Corridor

Right-of-way, easement, or other corridor for transmission wires, pipes or other facilities, for conveying energy, communication signals, fuel, water, wastewater, etc.

Underground Storage Tank

As defined by State of Maine regulations published by the Maine Department of Environmental Protection.

Waste Disposal, Industrial/Commercial

(See Industrial waste)

Wastewater

Any combination of water-carried wastes from institutional, commercial and industrial establishments, and residences, together with any storm, surface or groundwater as may be present.

Wastewater Treatment Plant

Any arrangement of devices and structures used for treating wastewater.

Watershed

Land lying adjacent to water courses and surface water bodies which creates the catchment or drainage area of such water courses and bodies; the watershed boundary is determined by connecting topographic high points surrounding such catchment or drainage areas.

Wellhead

The specific location of a well (a hole or shaft dug or drilled to obtain water) and/or any structure built over or extending from a well.

Wellhead Protection Area

A zone, consisting of 2 districts, delineated according to Article III, Section 1 of this Ordinance

Well, Abandoned

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for the extraction or monitoring of groundwater that has not been used for a period to two consecutive years.

Well, Existing or New

A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of groundwater.

Zone of Contribution

The area from which groundwater flows to a pumping well.